



# PARLIAMENT OF THE REPUBLIC OF FIJI

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STANDING COMMITTEE ON FOREIGN AFFAIRS AND DEFENCE

## REPORT ON THE WORLD TRADE ORGANISATION WTO - TRADE FACILITATION AGREEMENT



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## **CHAIR'S FOREWORD**

I am pleased to present this Report on the World Trade Organisation (WTO) Trade Facilitation Agreement of the Fiji Parliament Standing Committee on Foreign Affairs and Defence (SCFAD) which was assigned to review and examine the Agreement.

This report provides a summary and analysis of written and oral submissions received at the Committee meetings commencing from 12<sup>th</sup> October 2016. The report is divided into four parts:

**Part 1:** covers the role and responsibilities of the Standing Committee and the inquiry process in undertaking the review of the WTO Trade Facilitation Agreement;

**Part 2:** provides a brief overview of the WTO Trade Facilitation Agreement;

**Part 3:** details the Standing Committee's observations and areas of concern and;

**Part 4:** provides a summary of the WTO Trade Facilitation Agreement.

The full verbatim reports will be available on the Parliamentary website.

The *Constitution of the Republic of Fiji* (Section 70) requires Parliament to establish committees to scrutinise Government administration, examine Bills and subordinate legislation, and undertake other functions as required under the rules and orders of Parliament. One of the functions of the Standing Committees as stipulated in Standing Orders 110(e) is to review international treaties and conventions ratified by the Government and monitor their implementation.

On behalf of the Honourable Members of the SCFAD, I would like to express my sincere appreciation to all the Government Ministries, Organisations and individuals who made a submission and/or attended public hearings. The outcome of the wide consultations undertaken and submissions received from key stakeholders provided the Standing Committee with an in-depth report of the WTO-TFA.

I also wish to extend my appreciation to the Honourable Members of the SCFAD and the Secretariat Staff for their commitment and worthy contributions towards the completion of this bi-partisan report. The Members of the Committee include the following: Hon. Mataiasi Niumataivalu, Hon. Mosese Bulitavu, Hon. Ratu Suliano Matanitobua and the Alternate Members are: Hon. Jilila Kumar, Hon. Jiosefa Dulakiverata, Hon. Viliame Gavoka, Hon. Salote Radrodoro, Hon. Ro Kiniviliame Kiliraki and Hon. Howard R. Politini.

I commend this committee's report to the Parliament for its consideration.

**Hon. Netani B. Rika**  
**Chairman**

## LIST OF ACRONYMS

AFL	Air Fiji Limited
ATS	Air Terminal Service
BAF	Biosecurity Authority Fiji
FRCA	Fiji Revenue & Customs Authority
FTDC	Focused Trade Development Committee
FTPF	Fijian Trade Policy Framework
LDCs	Least Developed Countries
MOH	Ministry of Health
S&DT	Special and Differential Treatment
SCFAD	Standing Committee on Foreign Affairs and Defence
SO	Standing Order
TFA	Trade Facilitation Agreement
WTO	World Trade Organisation
WTO-TFA	World Trade Organisation Trade Facilitation Agreement

**RECOMMENDATION:**

The Committee recommends:

Parliament to ratify the World Trade Organisation Trade Facilitation Agreement.

## PART 1

### 1.0 INTRODUCTION

The Parliament Standing Committee on Foreign Affairs and Defence undertook a review of the WTO Trade Facilitation Agreement that was proposed by the Government of the Republic of Fiji for ratification.

#### 1.1 The Standing Committee on Foreign Affairs and Defence

The Committee was established under Standing Orders (SO) 109(2)(e) of the Parliament of the Republic of Fiji. The Standing Committee is mandated to look into matters related to Fiji's relations with other countries, development aid, foreign direct investment, oversight of the military and relations with multi-lateral organisations.

Under SO 110(1)(e) the Committee is also tasked with reviewing international treaties and conventions ratified by the Government and monitor their implementation.

The Committee comprises of five Honourable Members which are drawn from both sides of the House in a bi-partisan manner.

#### 1.2 Committee Members

The members of the Standing Committee on Foreign Affairs and Defence are:

- Hon. Netani Rika (Chairman)
- Hon. Mataiasi Niumatawalu
- Hon. Mosese Bulitavu
- Hon. Ratu Suliano Matanitobua
- Hon. Alexander O'Connor

During the Standing Committee's meetings, the following alternate membership arose pursuant to Standing Order 115(5):

- Hon. Jilila Kumar
- Hon. Jiosefa Dulakiverata
- Hon. Viliame Gavoka
- Hon. Salote Radrodro
- Hon. Ro Kiniviliame Kiliraki
- Hon. Howard R. Politini

### **1.3 Procedure and Program**

The Standing Committee on Foreign Affairs and Defence met in the Parliament Complex from 3<sup>rd</sup> October 2016 to discuss and plan their strategy for receiving public submissions.

The Committee placed advertisements in the *Fiji Sun* and *Fiji Times* from the 2<sup>nd</sup> to 13<sup>th</sup> of November 2016. The advertisement was also placed on the Parliament website ([www.parliament.gov.fj](http://www.parliament.gov.fj)).

The Committee met in the Parliament Complex between 12<sup>th</sup> October and 25<sup>th</sup> November 2016 to hear oral submissions on the WTO Trade Facilitation Agreement.

The Committee received written and oral submissions on the WTO Trade Facilitation Agreement from key stakeholders between 12<sup>th</sup> October to 25<sup>th</sup> November 2016 and in the Western Division from the 14<sup>th</sup> to 15<sup>th</sup> November 2016.

## PART 2

### 2.0 WTO - TRADE FACILITATION AGREEMENT

#### 2.1 Background

On 26<sup>th</sup> September 2016, the WTO Trade Facilitation Agreement was referred to the Standing Committee on Foreign Affairs and Defence Committee for its deliberation.

Under Section 51 of the Constitution, “An international treaty or convention binds the State only after it has been approved by Parliament.”

Traders from both developing and developed countries have long pointed to the vast amount of “red tape” that still exists when moving goods across borders which poses a particular burden on small and medium-sized enterprises.<sup>1</sup>

To address this, the WTO member countries concluded negotiations for a Trade Facilitation Agreement at their 2013 Bali Ministerial Conference and are now in the process of adopting measures needed to bring the Agreement into effect.<sup>2</sup>

#### 2.2 What is the TFA Global Reform?

The TFA is a global reform of customs procedures, which seeks to improve efficiency in trade crossing borders. Collaboration and having better defined roles amongst the relevant border agencies, contributes to the efficiency at the borders and reduces the cost and time taken to clear goods.<sup>3</sup>

The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.<sup>4</sup> It further contains provisions for technical assistance and capacity building in this area.

The Agreement will help improve transparency, increase possibilities to participate in global value chains and reduce the scope for corruption.<sup>5</sup> The SCFAD also believes the agreement will strengthen accountability.

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<sup>1</sup> Solicitor-Generals Office, World Trade Organisation (WTO) Trade Facilitation Agreement (TFA), Summary of the Agreement 2016.

<sup>2</sup> *ibid*

<sup>3</sup> *ibid*

<sup>4</sup> *ibid*

<sup>5</sup> *ibid*

### **2.3 What is the Special and Different Treatment (S&DT) Provisions?**

**Section I** of the Trade Facilitation Agreement contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It clarifies and improves the relevant articles (V, VII, and X) of the General Agreements of Tariffs and Trade (GATT) 1994. It also sets out provisions for customs cooperation.<sup>6</sup>

**Section II** of the Trade Facilitation Agreement contains S&DT provisions that developing and Least Developed Country (LDC) Members can use to determine when they will implement individual provisions of the agreement and to identify provisions that they will only be able to implement upon the receipt of technical and financial assistance and support for capacity building.<sup>7</sup>

For provisions designated as Category B and C, the Member must provide dates for implementation of the provisions.<sup>8</sup>

#### **2.4 Category A**

Provisions that the Member will implement by the time the Agreement enters into force (or in the case of at least-developed country Members within one year after entry into force)<sup>9</sup>.

#### **2.5 Category B**

Provisions that the Member will implement after a transitional period following the entry into force of the Agreement.<sup>10</sup>

#### **2.6 Category C**

Provisions that the Member will implement after a transitional period following the entry into force of the Agreement and requiring the acquisition of assistance and support for capacity building.<sup>11</sup>

**Section III** of the Trade Facilitation Agreement contains provisions that establish a permanent committee on trade facilitation of the WTO, requires Members to have a national committee to facilitate domestic coordination and implementation of the provisions of the agreement. It also sets out final provisions.<sup>12</sup>

The Trade Facilitation Agreement comes into force once two thirds of the WTO Memberships (about 108 Members) ratify the Trade Facilitation Agreement. So far 92 countries have accepted the Protocol of Amendment to insert the Trade Facilitation Agreement into Annex 1A of the WTO Agreement.<sup>13</sup>

To benefit from S&DT, a Member must categorise each provision of the Agreement and notify other WTO Members of these categorisations in accordance with specific timelines outlined in the agreement.<sup>14</sup>

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<sup>6</sup> *ibid*

<sup>7</sup> *ibid*

<sup>8</sup> *ibid*

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

<sup>11</sup> *ibid*

<sup>12</sup> *ibid*

<sup>13</sup> *ibid*

<sup>14</sup> *ibid*

## PART 3

### 3.0 COMMITTEE'S OBSERVATIONS AND AREAS OF CONCERN

#### 3.1 Requirements for Implementation

- 3.1.1 The WTO Trade Facilitation Agreement is applicable to all border agencies such as Fiji Revenue and Customs Authority (FRCA), Biosecurity Authority of Fiji (BAF), Fiji Ports Corporation Limited and Ministry of Health & Medical Services (MOHMS), Police Border Control Unit, Air Terminal Service (ATS), Airports Fiji Limited (AFL) and courier services. These border agencies also have a responsibility to consult and create awareness about their reform initiatives and strengthen partnerships with private sector agencies such as freight forwarders.
- 3.1.2 Following the coming into force of the Agreement, all member countries will be required to implement the TFA in accordance with the commitments provided in the 3 categories.<sup>15</sup>
- 3.1.3 Therefore, in Fiji's case all provisions that are in Category A will be implemented immediately. These provisions will not have any new implementation requirements as systems and procedures in place are adequate for implementation.<sup>16</sup>
- 3.1.4 Provisions listed in Category B will require progressive implementation as work on infrastructure development and legislative changes have already begun and will require time to put in place.<sup>17</sup>
- 3.1.5 The implementation of Category C cannot be done without technical and financial resources, therefore the implementation will be done when technical assistance is available from development partners.<sup>18</sup>

#### 3.2 Impact of Ratification

- 3.2.1 It is prudent to note that in February 2016, the Fijian Government in its World Trade Organisation Trade Policy Review made a commitment towards ratifying the trade facilitation agreement by the end of 2016.<sup>19</sup>

#### 3.3 Benefits

- a) The ratification of this treaty is a positive step towards the modernisation programme Fiji is undertaking, but will also contribute to the reduction in time and cost it takes to facilitate the clearance of goods at our borders and ports.<sup>20</sup>

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<sup>15</sup> *ibid*

<sup>16</sup> *ibid*

<sup>17</sup> *ibid*

<sup>18</sup> *ibid*

<sup>19</sup> *ibid*

<sup>20</sup> *ibid*

- b) Making our systems and processes more efficient and effective to boost revenue collection efforts.<sup>21</sup>
- c) Ratifying the TFA will also support Fiji’s efforts to ensure effective collaboration and having better defined roles amongst the relevant border agencies. This will contribute to the efficiency at the borders and reduces the costs and times it takes to clear goods.<sup>22</sup>
- d) The TFA contains provisions for technical and capacity building under Category C; therefore, ratifying the WTO Trade Facilitation Agreement will enable Fiji to also access support from its cooperating partners that will contribute to trade facilitation and customs modernisation efforts.<sup>23</sup>
- e) This will also accelerate most of the important programs like “**Single Window**” that Fiji is undertaking and other measures needed for effective implementation.
- f) The Consumer Council of Fiji recognizes the reform initiatives that will be brought about by the Agreement. It noted that the strengthening of specific outcomes of the reforms will improve customer service, short turn-around times and reduction in the cost of doing business.
- g) FRCA also highlighted the expected benefits of TFA for Fiji through various global studies:
  - Reduction of trade cost by 14.5%
  - Boosting global trade by US\$1 trillion and creating 21 million new jobs annually.
  - Also 66% of this is estimated to benefit developing countries like Fiji.
- h) BAF stated that the implementation of this treaty will improve customer service delivery.

### 3.4 Stakeholders Observations

There was a general consensus from the stakeholders to the Government to ratify the protocol.

The Stakeholders include:

- border control agencies – FRCA, BAF, MOHMS, ATS, AFL;
- Consumer Council of Fiji and;
- the Ministry of Industry, Trade and Tourism.

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<sup>21</sup> *ibid*

<sup>22</sup> *ibid*

<sup>23</sup> *ibid*

## **3.5 Challenges**

### **3.5.1 FRCA**

- Excessive documentation requirements
- Inefficient border – crossing procedures
- Transport and transit requirements
- Lack of transparency and predictability
- Lack of cooperation and coordination
- Lack of automated process and use of information technology
- High administrative cost

### **3.5.2 BAF**

- Budgetary, equipment and human resource constraints which limits their capacity to effectively address the risks brought about by harmful plants, fauna, pests and other hazardous materials.

### **3.5.3 Importers**

- According to the importers the inconsistency in BAF policies and practices is a barrier to trade for importers and exporters based in Fiji. They highlighted the need for policy review and the need for consistent application of bio-security procedures, fees and charges by BAF.

### **3.5.4 AFL and ATS**

- Their initiative to procure the necessary x-ray and scanning machines to facilitate the security processes of checking passengers, luggage, baggage and cargo that out-bound and in-bound. These sophisticated expensive machines are a requirement of the International Civil Aviation Organisation (ICAO) that Fiji is a member of.

### **3.5.5 The Fiji Police Border Control Unit (FPBCU)**

- There is a need to modernise its safety and security services at the Nadi International Airport and all ports of entry also the need to officially gazette the Unit to improve their services delivery.

## **3.6 Gender Analysis**

The Parliament of Fiji Standing Orders 110(2) requires standing committees give full consideration the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally. The Committee is satisfied that the matters considered in this report, impacts on both women and men equally. The ratification of the WTO-Trade Facilitation Agreement will not have any adverse effect on gender equality.

## **PART 4**

### **4.0 CONCLUSION**

The Committee has agreed that Fiji's ratification of the WTO Trade Facilitation Agreement is in the national interest. It also noted the following potential benefits:

- quick turn-around of goods at the border;
- better facilitation of trade and;
- reduced cost of doing business.

The Committee recommends Parliament to expedite ratification of the Treaty.

## REFERENCE

- *Constitution of the Republic of Fiji* (2013).
- Parliament of the Republic of Fiji (2016) *Standing Orders of the Parliament of the Republic of Fiji*, 19<sup>th</sup> February 2016.
- World Trade Organisation, Trade Facilitation Agreement, *World Trade Organisation – Easing the flow of Goods across borders, Trade Facilitation Agreement*. Available at: [www.wto.org/english/thewto\\_e/20y\\_ewto\\_tradefacilitation\\_e.pdf](http://www.wto.org/english/thewto_e/20y_ewto_tradefacilitation_e.pdf) [Accessed 04/10/2016].
- Ratification of the WTO-TFA Agreement Brief, Office of Solicitor-General, September 2016.